

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SUNNYVALE AMENDING CERTAIN SECTIONS OF
CHAPTER 12.60 OF THE SUNNYVALE MUNICIPAL
CODE ENTITLED "STORM WATER MANAGEMENT"**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS
FOLLOWS:

SECTION 1. CHAPTER 12.60 AMENDED. Various Sections of Chapter 12.60 of the
Sunnyvale Municipal Code are amended as follows:

- A. SECTION 12.60.040 AMENDED. Section 12.60.040 of the Sunnyvale Municipal Code
is amended in part to read as follows:

Section 12.60.040. Definitions.

For the purposes of this chapter the following words and phrases shall have the meanings
given to them in this section. Words and phrases not defined in this chapter shall have
the definitions set forth in the permit or by the regulations implementing the National
Pollutant Discharge Elimination System, Clean Water Act Section 402, and Division 7 of
the California Water Code, as they currently exist or may be amended.

(a) – (b) [Text unchanged.]

(c) “BMP Guidance Manual” means the manual approved by the City of Sunnyvale
directors of the Public Works and Community Development Departments, as amended
from time to time, that sets forth guidance, design standards and best management
practices for storm water treatment measures, which shall be utilized by developers to
comply with this chapter. A copy of the BMP Guidance Manual may be obtained from
the city’s planning division.

(c) – (h) [Text unchanged, renumbered consecutively (d) –(i).]

(j) “Hydromodification Management Plan (“HMP”)” means the plan submitted in the
Final Report to the Regional Water Quality Control Board by the Santa Clara Valley
Urban Runoff Pollution Prevention Program on April 21, 2005, on behalf of the City as a
co-permittee fo the NPDES storm water discharge permit. The HMP, approved by the
City and the RWQCB, and as amended from time to time, is designed to manage
increases in the magnitude, volume and duration of runoff from new development and
significant redevelopment projects in order to protect streams from increased potential for
erosion or other adverse impacts. The HMP contains management standards and
performance criteria for subject development which are incorporated into this chapter. A
copy of the HMP may be obtained from the city’s planning division.

(i) – (x) [Text unchanged, renumbered consecutively (k) – (z).]

B. SECTION 12.60.070 AMENDED. Section 12.60.070 of the Sunnyvale Municipal Code is amended in part as follows:

Section 12.60.070. Discharge prohibitions.

(a) – (e) [Text unchanged.]

(f) Conditionally Exempted Discharges. The following categories of non-storm water discharges are conditionally exempt from discharge prohibitions established by this chapter. Dischargers must install, implement and maintain any specifically applicable minimum best management practices, set out in the BMP Guidance Manual referenced in Section 16.60.220 so as to prevent or eliminate adverse impacts of such discharges.

(1) – (11) [Text unchanged.]

(g)-(i) [Text unchanged.]

C. SECTION 12.60.110 AMENDED. Section 12.60.110 is deleted and replaced in its entirety to read as follows:

12.60.110. Storm water runoff treatment measures and flow control.

Urban development may result in the creation of greater areas of impervious surfaces. Pursuant to the requirements of its Storm Water Discharge NPDES permit, the City regulates two components of storm water runoff from such urbanization: pollution and watershed modification.

Urban development may create new pollution sources as human population density increases and brings higher levels of car emissions, car maintenance wastes, municipal sewage, pesticides, household hazardous wastes, trash, etc., which can be washed in to storm sewer systems. Storm water treatment measures are required of certain developments in order to reduce possible pollution from storm water runoff associated with those developments.

In addition, urban development modifies natural watershed processes by altering the terrain, modifying the vegetation and soil characteristics, introducing pavement and buildings, and installing drainage and flood control infrastructure. These changes affect hydrologic characteristics in the watershed (rainfall interception, infiltration, runoff and stream flows), and affect the supply and transport of sediment in the stream system. The change in runoff characteristics from a watershed caused by changes in land use conditions is defined as “hydromodification.” To address these concerns, certain developments are required to comply with the key elements of city’s Hydromodification Management Plan (“HMP”), as enumerated in the Storm Water Discharge NPDES permit and restated in the BMP Guidance Manual.

D. SECTION 12.60.120 AMENDED. Section 12.60.120 is deleted and replaced in its entirety to read as follows:

Section 12.60.120. Storm water treatment requirements; applicability.

Specific storm water treatment requirements, as set forth in this chapter, are mandated for certain categories of new and redevelopment projects based upon the amount of impervious area created or replaced by a project. Treatment requirements shall apply to the following types of projects:

(a) **Buildings.** New commercial, industrial or residential developments that create 10,000 square feet or more of impervious surface, including roof area, streets and sidewalks. This category includes any development of any type on public or private land, which falls under the planning and building authority of the city, where 10,000 square feet or more of new impervious surface, collectively over the entire project site, will be created. Construction of one single-family home, which is not part of a larger common plan of development, with the incorporation of appropriate pollutant source control and design measures, and using landscaping to treat runoff from roof and house-associated impervious surfaces, is exempt from the requirements of this chapter.

(b) **Streets.** Any street, road, highway or freeway that is under the city's jurisdiction and that creates 10,000 square feet or more of new impervious surface. This category includes any newly constructed paved surface used primarily for transportation of automobiles, trucks, motorcycles, and other motorized vehicles. Excluded from this category are sidewalks, bicycle lanes, trail, bridge accessories, guardrails, and landscape features.

(c) **Significant Redevelopment.** "Significant Redevelopment" is defined as a project on a previously developed site that results in addition or replacement of 10,000 square feet or more (combined total) of impervious surface on the site. Where a significant redevelopment project results in an increase of, or replacement of, more than fifty percent of the impervious surface of a previously existing development, and the existing development was not subject to storm water treatment measures, the entire project must be included in the treatment measure design. Where a significant redevelopment project results in an increase of, or replacement of, less than fifty percent of the impervious surface of a previously existing development, and the existing development was not subject to storm water treatment measures, only that affected portion must be included in treatment design. Excluded from this category are interior remodels and routine maintenance or repair, including roof or exterior surface replacement, pavement resurfacing, repaving, and road pavement structural section rehabilitation within the existing footprint, and any other reconstruction work within a public street or road right-of-way where both sides of that right-of-way are developed.

D. **SECTION 12.60.130 AMENDED.** Section 12.60.130 of the Sunnyvale Municipal Code is amended to read as follows:

12.60.130. Storm water pollution reduction.

All applicants for permits pertaining to the planning, design, and construction of all projects subject to this chapter shall design and implement storm water best management practices so as to reduce storm water pollution to the maximum extent practicable. Such

projects shall utilize standards and guidelines set forth in the BMP Guidance Manual, and shall incorporate the numeric sizing criteria for best management practices set forth in this chapter, unless a waiver and alternative performance is applicable.

E. SECTION 12.60.140 AMENDED. Subdivision (a) of Section 12.60.140 of the Sunnyvale Municipal Code is hereby amended to read as follows:

12.60.140. Storm water management plan required.

(a) All applications for any city permit or approval required for land disturbance activities, construction, development or significant redevelopment for any project subject to this chapter, including but not limited to use permits, specials development permits, grading permits, variances, landscape plans, design review, parcel maps or tentative maps, applicable building permits, or applicable encroachment permits, must include a storm water management plan.

F. SECTION 12.60.160 AMENDED. Section 12.60.160 of the Sunnyvale Municipal Code is hereby amended in its entirety as follows:

Section 12.60.160. Hydromodification Management Plan (HMP) requirements; applicability.

(a) Requirement. Storm water discharges from any non-exempt project shall be designed and maintained so they shall not cause an increase (over the pre-project existing condition) in the erosion potential of the stream into which they flow. Standards for measuring erosion potential, along with specific design requirements to control hydromodification impacts are set forth in the HMP. All applicants are required to comply with the standards and performance criteria and requirements set forth in the key elements of the HMP. A copy of the HMP may be obtained from the city's planning division.

(b) Applicability. All new and redevelopment project that create or replace one acre or more of impervious surface shall implement the hydromodification controls and standards set forth in the HMP. The following project are exempt from HMP compliance:

[1] Projects that do not create an increase in impervious surface over pre-project conditions.

[2] Projects located within areas that drain to stream channels within the tidally influenced area. Such areas are shown in the HMP zone map included in the City's BMP Guidance Manual.

[3] Projects located within areas that drain to non-earthen stream channels that are hardened on three sides and extend continuously upstream from the tidally influenced area. Such areas are depicted in the City's BMP Guidance Manual.

[4] Projects draining to Sunnyvale East or West Channels. Such areas are depicted in the City's BMP Guidance Manual.

[5] Projects draining to an underground storm drain that discharges directly to San Francisco Bay.

[6] Projects that demonstrate, upon completion of stream-specific and modeling

studies that are consistent with the method used in the HMP Report and its supporting technical documents, that there will be no increase in potential for erosion or other adverse impact to beneficial uses to any state waters.

[6] Projects that are less than 50 acres in total project size that are located in areas with < 65-70% impervious surface and 90% or more built-out, as depicted in the City's BMP Guidance Manual. Such projects are encouraged but not required to implement the HMP.

[7] Projects that are located in areas with \geq 65-70% impervious surface and 90% or more built-out, as depicted in the City's BMP Guidance Manual. Such projects are encouraged but not required to implement the HMP.

[8] Any subject project for which a development application has been determined to be complete by the director of community development before October 20, 2005; and

[9] Any publicly funded project for which funding has been committed and for which construction has been scheduled before October 20, 2005.

G. SECTION 12.60.180 AMENDED. Section 12.60.180 of the Sunnyvale Municipal Code is amended to read as follows:

Section 12.60.180. Certification of adherence to design criteria.

The authorized enforcement official may require a developer to provide a signed certification from a civil engineer or a licensed architect or landscape architect registered in the State of California that any plan for proposed storm water treatment and/or hydromodification management facilities and best management practices meet the requirements of this chapter and the established criteria. Each certifying person shall establish to city's satisfaction that such person has been trained on best management practice design for water quality not more than three years prior to the signature date, and that each certifying person understands the groundwater protection principles applicable to the project site. Training conducted by an organization with storm water treatment best management design expertise such as a university, the American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, or the California Water Environment Association may be considered qualifying.

H. SECTION 12.60.220 AMENDED. Section 12.60.220 of the Sunnyvale Municipal Code is amended to read as follows:

Section 12.60.220. Best management practices incorporated.

The Best Management Practice Guidance Manual is incorporated by reference into this Ordinance. The authorized enforcement official may from time to time revise or add to such manual to comply with NPDES requirements and stay current with technology and best management practices.

I. SECTION 12.60.260 AMENDED. Section 12.60.260 of the Sunnyvale Municipal Code is amended in part to read as follows:

Section 12.60.260. Failure to properly operate and maintain storm water treatment and hydromodification management facilities.

(a) It is a violation of this code for any land owner to fail to properly operate and maintain any approved storm water treatment facilities, hydromodification management facilities, and/or source control best management practices on the owner's property.

(b) [Text unchanged.]

J. SECTION 12.60.280 AMENDED. Section 12.60.280 of the Sunnyvale Municipal Code is amended to read as follows:

Section 12.60.280. Impracticability criteria.

City may grant eligibility for alternative compliance if the implementation of required on-site measures is impracticable, under any of the criteria defined below. The applicant may need to provide at city's request an appropriate technical consultant's certification, supporting such eligibility.

(a) There are space limitations on detention and/or conveyance of runoff;

(b) There are limitations on ability of treatment measures to address pollutants of concern;

(c)

Site is within a designated "groundwater protection area" zone as depicted on maps found in the BMP Guidance Manual;

(d) If projected costs of required on-site measures would exceed two percent (2%) of total project costs;

(e) For the following types of projects if projected costs of the required on-site measures would exceed one percent (1%) of total project costs:

(1) Projects within redevelopment areas that create housing units affordable to persons of low or moderate income as defined by Health and Safety Code section 50093.

(2) Projects within redevelopment areas which redevelop an existing brownfield site, as defined by Health and Safety Code section 50093.

(3) Transit village projects within one-fourth mile of transit stations and/or intermodal facilities.

(f) Installation of measures would result in an inability to comply with other regulatory requirements at the federal, state and local levels (for example, seismic building code requirements).

SECTION 2. EXEMPTION FROM CEQA. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 3. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 4. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on September ____, 2005, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on September ____, 2005, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST:

APPROVED:

City Clerk
(SEAL)

Mayor